

ANONYMOUS

Witness Name **GRO-B**

Statement No.: WITN2151002

Exhibits: WITN2151003-020

Dated: 21st July 2021

INFECTED BLOOD INQUIRY

EXHIBIT WITN2151008



IN THE COURT OF SESSION

SUMMONS

in the cause

GRO-B

residing at

GRO-B

Pursuer

against

(FIRST) THE SCOTTISH MINISTERS on behalf of the SCOTTISH NATIONAL BLOOD TRANSFUSION SERVICES, The Scottish Office, Victoria Quay, Edinburgh and (SECOND) SCOTTISH NATIONAL BLOOD TRANSFUSION SERVICES, Ellen's Glen Road, Edinburgh EH17 7QT

Defender

ELIZABETH II, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith, to (FIRST) THE SCOTTISH MINISTERS on behalf of the SCOTTISH NATIONAL BLOOD TRANSFUSION SERVICES, and (SECOND) SCOTTISH NATIONAL BLOOD TRANSFUSION SERVICES

By this summons, the pursuer craves the Lord of our Council and Session to pronounce a decree against you in terms of the conclusions appended to this summons. If you have any good reason why such decree should not be pronounced, you must enter appearance at the Office of Court, Court of Session, 2 Parliament Square, Edinburgh EH1 1RQ, within three days after the date of the calling of the summons in court. The summons shall not call in court earlier than 21 days after the date of service on you of this summons. Be warned that, if appearance is not entered on your behalf, the pursuer may obtain decree against you in your absence.

Given under our Signet at Edinburgh on

HENDERSON BOYD JACKSON WS
19 AINSLIE PLACE, EDINBURGH

CONDESCENDENCE

1. The pursuer is **GRO-B** who resides at **GRO-B**.
GRO-B He was born on **GRO-B** 81. The first defenders are The Scottish Ministers, on behalf of the Scottish Blood Transfusion Service, having offices at The Scottish Office, Victoria Quay, Edinburgh. At the material time the Secretary of State for Scotland had responsibility for the provision of services in relation to blood products. In terms of The Scotland Act 1998 which provides for the transfer of existing Ministerial Functions to the Scottish Ministers, the Scottish Ministers have responsibility for the actions of the Secretary of State at the material time. The second defenders are Scottish National Blood Transfusion Service and having their principal offices at Ellen's Glen Road, Edinburgh. They are domiciled there. Accordingly this court has jurisdiction. To the knowledge of the pursuer, no proceedings are pending before any other court involving the present cause of action and between the parties hereto. To the knowledge of the pursuer no agreement exists between the parties prorogating jurisdiction over the subject matter of the present cause to another court.

2. In around **GRO-B** 1983 when he was 1 1/2 years of age the pursuer fell in a country park and cut his face. Despite suture the bleeding continued for 2 days. Approximately 10 days later he fell again and his upper lip bled. The bleeding recurred and on around **GRO-B** 1983 the pursuer was taken to **GRO-B** where a PTTK clotting test was performed. This is a test which assesses the integrity of the intrinsic pathway of the coagulation cascade. PTTK time was prolonged at 59 seconds (control 38secs).
 The pursuer was admitted to the **GRO-B** in Edinburgh on **GRO-B** 83. The factor VIII plasma level (coagulation factor) was reported at 7.5% and his Hb (Haemoglobin) 7.3g/dl (normal range 12-14). Factor VIII is a key component of the blood clotting system, deficiency of which leads to bleeding problems after minor injury or trauma. The factor VIII plasma level is consistent with moderate to severe bleeding problems. The haemoglobin level was consistent with a significant loss of blood. The pursuer was transfused with blood to increase his haemoglobin and then discharged. Investigations performed had revealed an APTT of 51 secs (control 34 secs) a factor VIII level of 0.075iu/ml, a vWF antigen which was undetectable and a vWF ristocetin co-factor level which was < 0.05iu/ml. The APTT results confirm a

severe defect in the intrinsic coagulation system. The ristocetin co-factor is a function measure of testing the von Willebrand factor in the blood. *Such results were consistent with a diagnosis of von Willebrand's disease. *The pursuer was re-admitted to **GRO-B** **GRO-B** 83 after a fall. He was transferred to the **GRO-B** **GRO-B** in Edinburgh. He was given 250 units of factor VIII concentrate. Topical thrombin was applied to the bleeding site to assist haemostasis (clotting). The pursuer was given one bag of cryoprecipitate which is a fraction of human plasma. It is produced by combining the plasma fractions from several blood donors to provide sufficient volume for clinical use. The pursuer was reviewed at the Haemophilia Centre at the Royal Infirmary in Edinburgh on 9/8/83 and he received factor VIII concentrate and cryoprecipitate for bleeding episodes. On 3/10/84 the pursuer was admitted to **GRO-B** after falling on a hard floor and hitting his head. A diagnosis of an intracranial bleed was made and he was given 200ml of cryoprecipitate. A CT scan revealed an area of increased density on the right side in the region of the low brain stem which was thought to be due to haemorrhage. He was treated subsequently with 2 units of cryoprecipitate 8 hourly for 24 hours and then 3 units 12 hourly for 3 days. After 6/10/83 he received 2 units 12 hourly for 4 days and then 1 unit daily for a further 2 days. He was then treated with 1 unit of cryoprecipitate on alternate days until 18/10/83. In total the pursuer received 34 units of cryoprecipitate. On 12/11/85 the pursuer presented at hospital with a bleeding cut lip and was treated with 4 packs of cryoprecipitate. He was reviewed annually at the Haemophilia Centre and there were no bleeds from 1986-1992. On 24/8/93 the pursuer presented at hospital with bleeding from his right lower gum which was treated with 1000 units of Haemate P (a virally inactivated factor VIII/vWF concentrate). A blood sample taken on 24/8/93 was found to be HCV PCR positive. On 1/3/94 the pursuer was seen by Dr Peter Hayes, Hepatologist and was advised that he had contracted Hepatitis C. *The pursuer became infected with Hepatitis C as a result of his treatment with cryoprecipitate and factor VIII concentrate in 1983-84. Both the cryoprecipitate and factor VIII concentrate were manufactured and supplied by the Scottish National Blood Transfusion Service. *As a result the pursuer has suffered the loss injury and damage hereinafter condended upon. *

3. The pursuer has von Willebrand's disease. Von Willebrand's disease is an inherited bleeding disorder which is usually transmitted as an autosomal dominant condition. The incidence is greater than that for haemophilia. It is caused by a qualitative and/or quantitative deficiency of von Willebrand factor, a multifunctional, multimeric plasma glycoprotein synthesized within vascular endothelial cells and megakaryocytes. Von Willebrand factor has two primary roles in haemostasis (clotting of the blood). First, it functions in primary haemostasis by binding both to platelets via the glycoprotein Ib platelet surface receptor and to exposed subendothelium and initiates the primary haemostatic process. It also mediates in platelet-platelet binding. Any defect in this process, such as defective von Willebrand factor in von Willebrand's disease will result in poor primary haemostasis and a prolonged skin bleeding time. The second function of von Willebrand factor is to bind factor VIII. Only after factor VIII has been activated by thrombin is von Willebrand factor released. As a result of this close association levels of factor VIII are often reduced in von Willebrand's disease. Patients with von Willebrand's disease present with spontaneous epistaxis (nose bleeds) and gingival bleeding caused by a deficiency of a component of factor VIII. Different types of the disease are recognised. Bleeding is usually less severe than in haemophilia with skin and mucous membrane bleeding predominating. The bleeding time is the best indicator of clinical severity. Minor bleeding or surgical episodes can often be contained. In more serious circumstances factor VIII:vWF:Ag replacement should be given in the form of fresh frozen plasma or factor VIII concentrate. Blood products were first used in the treatment of haemophilia and von Willebrand's disease in the late 1960s. Plasma derived clotting factors for treatment of the conditions have been manufactured from human blood since the late 1960s. Only very recently, genetically engineered synthetic products (recombinants), which do not rely on human plasma, have become available. In the '60s, '70s and '80s, when the first plasma derived clotting factors were introduced, the majority of patients treated were infected with blood borne viruses, including HIV and hepatitis A, B and C. *As early as 1972 it was known that a hepatitis virus, known then as "non A, non B" was transmitted through blood. *At that time the UK was unable to produce enough home manufactured product to meet demand, and large quantities were imported from the USA. Much, but not all, of the infection has been traced back to the use of so-called "skid row" and other paid donors from high-risk groups in the USA. Viral inactivation processes were implemented in 1985-86 to

prevent such contamination but by then an estimated 4800 people with haemophilia had been infected with hepatitis C and 1,200 of these co-infected with HIV. Over 700 of those infected with HIV have now died, and of the 475 survivors almost all are HCV/HIV co-infected. Over 90 people with haemophilia are estimated to have died of liver disease, although in the absence of an official Government figure the total may well be higher. The pursuer has hepatitis C which was transmitted through contaminated blood products. Hepatitis is an inflammatory condition of the liver, characterised by jaundice, hepatomegaly, anorexia, abdominal and gastric discomfort, abnormal liver function, clay coloured stools and tea coloured urine. There are different types of hepatitis depending on the infecting virus. Hepatitis C virus or (HCV) is a RNA (ribonucleic acid virus) and is life threatening. Hepatitis C is usually transmitted by parenteral inoculation. Blood transfusion was one of the most important sources until the introduction of blood tests to detect carriers of the virus. The disease progresses to chronic hepatitis in up to 50% of the patients acutely infected. Diagnosis is made through identification of antibodies of HCV.

4. The pursuer's said loss injury and damage was caused or at least materially contributed to by the fault and negligence of the first defenders who are responsible for the actions of the Secretary of State. At the material time the Secretary of State for Scotland had statutory duties in relation to the implementation and provision of the blood transfusion service in Scotland. The Blood transfusion service provided the blood products which were given to the pursuer. It was common knowledge at that time that non A non B hepatitis existed and could be transmitted through blood products. They had a duty to screen blood prior to giving that blood to patients. The pursuer has contracted Hepatitis C from the aforementioned blood products. There was a failure to properly screen the blood and identify the carriers of the hepatitis C virus. There was a failure to implement a proper screening service. In said duties the first defenders failed and so caused or at least materially contributed to the loss injury and damage suffered by the pursuer. Had they performed the duties incumbent upon them the said loss would not have occurred. *

5. The pursuer's said loss injury and damage was caused or at least materially contributed to by the fault and negligence of the second defenders. They provided the blood products which were given to the pursuer. They manufactured the cryoprecipitate and factor VIII concentrate which was given to the pursuer. They were aware at that time that non A non B hepatitis existed. The pursuer has contracted Hepatitis C from the aforementioned blood products. They failed to properly screen the blood and identify the carriers of the hepatitis C virus prior to the blood being given to the pursuer. In said duties the second defenders failed and so caused or at least materially contributed to the loss injury and damage suffered by the pursuer. Had they performed the duties incumbent upon them the said loss would not have occurred.

6. As a consequence of the said failures of duty, the pursuer has suffered loss, injury and damage. *The pursuer was found to be HCV PCR positive following a blood test performed on 24/8/93. *It is not uncommon that people with chronic HCV infection can remain symptomless for many years but during this time the liver becomes inflamed and damaged. The pursuer was reviewed on 1/3/94 by Dr Peter Hayes, Hepatologist. He discussed the possibility of treatment with Interferon. The interferons are glycoproteins produced in mammalian cells and are part of the natural defence system of the body, particularly against viral infections. They also have a modulating influence on the immune system. After a further discussion on 29/3/94 the pursuer received Interferon 3 mega units 3 times per week from 5/4/94. On 27/9/94, by which point the pursuer had had 25 weeks treatment, the hepatitis C virus was still detectable by PCR (polymerase chain reaction). A decision was made to stop treatment. In February 1998 consideration was given to the pursuer having a course of Ribavirin and Interferon. It was decided to wait until Ribavirin had a licence before agreeing to its use. Hepatitis C is difficult to treat. The treatment regime is demanding and debilitating with unpleasant side effects. The hepatitis C virus carries considerable social stigma. The pursuer had hepatitis C in May 1985 when his liver function results were abnormal and characteristic of hepatitis C infection. When hepatitis C becomes active, it is extremely damaging. It is a virus which attacks the

liver. There is a significant risk that the pursuer will develop chronic liver disease or he might develop cirrhosis of the liver, which might progress to liver cancer. A small proportion of people suffering from hepatitis C will die of liver disease. There is no fully effective treatment for the virus. Progress is being made with combination therapy involving interferon and ribavirin, but it does not succeed for all. The treatment has been shown to clear the virus in 30 per cent. of cases. People with haemophilia might be less responsive to the treatment than the general population. *The treatment often carries unpleasant and, for some, intolerable side effects. As a result of his condition the pursuer is at a disadvantage in the employment market. As a result of his condition the pursuer has required assistance from his parents. He has been unable to provide assistance to them. A claim is accordingly made in terms of s8 and s9 of the Administration of Justice Act 1982. *In the circumstances the sum sued for is a reasonable estimate of the loss injury and damage sustained by the pursuer

7. The defenders have been called upon to make reasonable reparation to the pursuer for the loss injury and damage sustained by him but they refuse or delay to do so. Accordingly this action is necessary.

PLEAS-IN LAW

1. The pursuer having suffered loss, injury and damage through the fault and negligence of the first defenders is entitled to reparation from them therefor.
2. The pursuer having suffered loss, injury and damage through the fault and negligence of the first defenders is entitled to reparation from them therefor.

CONCLUSIONS

1. To grant decree against the defenders jointly and severally and severally for payment to the pursuer of the sum of ONE HUNDRED THOUSAND POUNDS (£100,000) STERLING with interest thereon at the rate of eight per cent per annum from the date of decree, or such other date as the court deems proper to follow hereon until payment.
2. To find the defenders liable in the expenses of the action.